

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

**MEMORANDUM IN SUPPORT OF THE MOTION OF CO-LEAD CLASS COUNSEL
ANAPOL WEISS TO COMPEL THE CLAIMS ADMINISTRATOR TO REIMBURSE
ALL CLASS COUNSEL OUT OF THE "ATTORNEYS' FEES QSF" ("THE FUND")
THOSE MONIES EACH CLASS ATTORNEY CONTRIBUTED TO THE COMMON
BENEFIT EXPENSES AND FOR AN ORDER ESTABLISHING "THE EDUCATION
FUND" PER THE SETTLEMENT.**

INTRODUCTION

Co-Lead Class Counsel, Anapol Weiss has filed the instant Motion seeking a Hearing and/or an Order to compel the Claims Administrator to: (1) pay to each Class Attorney the funds recovered and deposited in "the Fund" to reimburse counsel for the common benefit expenses incurred in the prosecution of this case; and, (2) an Order compelling the Administrator to

establish “the Education Fund” described in the Settlement Agreement and to have the Court appoint persons to administer the Fund.

BACKGROUND INFORMATION

On February 13, 2017, the co-lead counsel on behalf of class counsel filed a Petition seeking an Order requiring the NFL to pay \$112.5 Million Dollars in attorneys’ fees and costs and “holdback” per the Settlement Agreement. On March 7, 2107, this Honorable Court entered an Order [ECF No. 7246] appointing the Garretson Resolution Group the Fund Administrator of the Attorneys’ Fees Qualified Settlement Fund out of which the common benefit fees and costs will be paid. This fund was denominated the “Attorneys’ Fees QSF”. The Court directed that the NFL pay into “the Fund” \$112,500,000.00, which is intended to serve as payment of common benefit fees and costs incurred and reported to the Court. On March 8, 2107, this Honorable Court provided notice to class members and class counsel advising of their opportunity to respond to the aforementioned Petition. All parties and attorneys having an interest in “the Fund” have filed pleadings with the Court. The Court has yet to decide any of the issues related to the common benefit fees and expenses. However, because no party nor any attorney has filed any objection to the common benefit expenses or the requested reimbursement of those expenses, co-lead counsel submit that those expenses should be paid now.¹

Secondly, as part of the settlement, the NFL was required to pay \$10,000,000 to establish an Education Fund which will be used to “support education programs promoting safety and injury prevention with respect to football players . . . and other educational initiatives benefitting

¹ While these expenses were previously documented in a pleading submitted by co-lead counsel as totaling \$5,682,779.30, that amount is slightly inaccurate and will be supplemented.

Retired NFL Players. . . . “[Amended Settlement Agreement, Section 2.1 (hh-ii) and Section 12.1 et al. The Settlement Agreement further provided for:

Section 12.1 An Education Fund will be established to fund programs promoting safety and injury prevention with respect to football players, including safety-related initiatives in youth football, the education of Retired NFL Football Players regarding the NFL CBA Medical and Disability Benefits programs and other educational initiatives benefitting Retired NFL Football Players. The Court shall approve these education programs, with input from Co-Lead Class Counsel, Counsel for the NFL Parties and medical experts, as further set forth below. Co-Lead Class Counsel and Counsel for the NFL Parties will agree to a protocol through which Retired NFL Football Players will actively participate in such initiatives.

Despite the requirement to establish the Education Fund and take all necessary steps to establish procedures and controls to manage and account for the disbursement of funds to the educational projects, to our knowledge the Fund has not been established and steps have not been taken to create funded programs. The need to establish the Education Fund is paramount. Every day, young people and former players are exposed to potential head injury or the harm of having suffered head injury and they need help through education. That is the reason this Fund was established. The failure of counsel to establish through proper procedures a committee to develop education projects, monitor the funding of these projects and their success demonstrates the need for judicial intervention.

For these reasons, co-lead counsel requests that this Honorable Court enter an Order compelling the payment of the common benefit case expenses to each law Firm whose financial outlays have been submitted to the Court and unopposed. Co-lead counsel also requests an Order of the Court appointing co-lead counsel to establish a committee to develop plans for the creation of education programs and fund those projects in accordance with the terms set forth in the Agreement regarding the Education Fund.

DATED: March 22, 2018

Respectfully submitted,

/s/ Larry E. Coben

ANAPOL WEISS

Larry Coben

Sol Weiss.